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ABSTRACT

The report of the Senate Committee on Labor and Public Welfare deals with S. 1256, a bill which contains amendments to extend through June 30, 1977 the entitlement formula for payments to the states provided under Part B of the Education of the Handicapped Act as amended by Public Law 93-380. It is explained that the amended bill's purpose is to enable the states to provide equal educational opportunity for handicapped children 3-through 21-years-old and that payments may also be used for the early identification and assessment of handicapping conditions in children under 3 years of age. Included are brief sections describing the need for legislation; hearings that have been held; a section-by-section analysis of S. 1256; and changes in existing law with regard to state entitlements, grants to states, and allocations of appropriations. (LH)

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94TH CONGRESS
1st Session

Calendar No. 163

REPORT
No. 94-169

EDUCATION OF THE HANDICAPPED ACT AMENDMENTS OF 1975

JUNE 2, 1975.—Ordered to be printed

Mr. RANDOLPH, from the Committee on Labor and Public Welfare, submitted the following

REPORT

[To accompany S. 1256]

The Committee on Labor and Public Welfare, to which was referred the bill (S. 1256) to extend for 1 additional year entitlements for part B of the Education of the Handicapped Act, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

COMMITTEE ACTION

The Committee on Labor and Public Welfare, in executive session, made two clerical amendments to this bill as introduced.

PURPOSE

As reported by the Committee on Labor and Public Welfare, S. 1256 is designed to extend for 1 additional year the entitlement formula for payments to the States provided in part B of the Education of the Handicapped Act as amended by Public Law 93-380. The basic concept behind this entitlement is to enable the States to provide equal educational opportunity for handicapped children across the Nation under a proven program, universally regarded as successful.

BACKGROUND

When the Education Amendments of 1974 were considered by the Senate, Senator Mathias introduced an amendment to sections 611 and 612 of the Education of the Handicapped Act to alter the grant formula provided in part B of that law. His amendment authorized

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grants to the States to assist in initiating, expanding, and improving programs for the education of handicapped children. As enacted, the 1974 amendments changed the grant formula for fiscal year 1975 only, from a system of State allotments to a system of entitlements based on $8.75 per child aged 3 through 21, and provided that payments under part B could be used for early identification and treatment of handicapped children under 3 years of age.

Need For Legislation

The need for legislation is well established and documented in the record of hearings before the committee during the last 2 years, including hearings on S. 6 introduced by Senator Williams, Chairman of the Commitee on Labor and Public Welfare, and last year's extensions of the Education of the Handicapped Act (originally S. 896) sponsored by Senator Randolph, the Chairman of the Subcommittee on the Handicapped. These hearings, held at locations across the nation as well as in Washington, have identified a population of more than eight million handicapped children—blind, deaf, retarded, physically handicapped, and specific learning disabled—all requiring special educational services.

At the present time, the Bureau of Education for the Handicapped estimates that only 55 percent of school aged handicapped children and 25 percent of preschool handicapped children are receiving the special education they need. The right to public education must extend to all children, including often neglected handicapped children. Their right has been affirmed by court decisions across the Nation in both Federal and State courts, and has been the basis for new education laws in many States.

One major barrier to providing this equal educational opportunity is the lack of sufficient resources. Since the passage of the Education of the Handicapped Act in 1967, Federal assistance to the States under part B of this act has grown from $2.5 million to $100 million in fiscal year 1975. Yet this funding level represents only a little more than $13 per child—grossly inadequate in relation to the extent of need.

Last year a temporary 1-year authorization was introduced by Senator Mathias, passed by the Senate, and subsequently signed into law, which authorized approximately $666 million for the education of handicapped children to be distributed to the States on a basis proportional to the number of handicapped children aged 3-21 in each State. This entitlement formula will expire June 30, 1975, returning the authorization ceilings for appropriations under part B to $100 million for 1976 and $110 million for 1977. These levels are only half of those previously authorized, and were intended as a temporary ceiling on the authorizations while the Committee was considering more comprehensive legislation. Thus, the Appropriations Committees are faced with authorization ceilings which limit further program growth, although the demand for assistance from the states is uniform in recognizing that we are at a unique point in the history of the Nation's treatment of the handicapped at which the goal of education for all handicapped children can become a reality. Federal law passed last year (Public Law 93-380) has called on all States to establish a deadline for educa-

tion of all handicapped children; Federal courts are ordering such educational opportunity; and State legislatures and State courts are following suit—but no increased assistance can be appropriated without enactment of a measure which increases the authorizations.

Hearings

Three days of hearings were held on S. 1256, S. 1264, and S. 6 on April 8, 9, and 15, 1975, in Washington, D.C. Testimony was received from representatives from major education associations, State administrators, the administration, and organizations representing handicapped individuals.

Testifying were: The Honorable Thomas O'Neill, Lieutenant Governor, Commonwealth of Massachusetts; Dr. Enid G. Wolfe, Supervising Director, Special Education Federal Programs Operations, Division of Services for the Handicapped, District of Columbia Schools; Dr. James R. Galloway, executive director, the National Association of State Directors of Special Education, Inc.; Jack W. Brady, superintendent of the West Virginia School for the Deaf and the Blind, representing the Council on Education of the Deaf; Dudley Koontz, United Cerebral Palsy of Iowa, representing the Consortium Concerned with the Developmentally Disabled; Beverly Rowan, Kennedy Foundation; Janet Rhoads, occupational threapist, representing the AOTA with the Consortium; Eva Johnson, board of directors of the National Association for the Retarded Citizens; Reese Robrohn, representing the American Council of the Blind, Irvin P. Schloss, representing the American Foundation of the Blind, and Blinded Veterans Association; Samuel B. Husk, executive vice president, the Council of the Great City Schools (accompanied by Larry Harris, special assistant to the Superintendent for Urban Affairs, Minneapolis Public School System); Dr. William Lucas, assistant superintendent for government relations, Los Angeles Unified School District; David Reilly, University Council for Educational Administration; The Honorable Charles McC. Mathias, Jr., a U.S. Senator from the State of Maryland; the Honorable Blair Lee, III, Lieutenant Governor of the State of Maryland; Dr. Francis X. McIntyre, assistant state superintendent, Maryland Department of Education (accompanied by Richard Schifter, vice president of Maryland State Board of Education); Dr. Terrel H. Bell, Commissioner of Education, U.S. Office of Education, (accompanied by Dr. Erwin W. Martin, Jr., Acting Deputy Commissioner for the Bureau of Education for the Handicapped; Mr. Charles M. Cooke, Jr., Deputy Assistant Secretary for Legislation); Ms. Kate Long, Oak Hill, West Virginia; August W. Steinhilber, Assistant Executive Director for Federal Relations, National Schools Boards Association (accompanied by Michael A. Resnick, Legislative Specialist); Albert T. Pimental, president, American Coalition of Citizens with Disabilities, Inc. (accompanied by Frederick Schreiber, executive secretary, National Association of the Deaf; Mrs. Ginny Peterson, Teacher of the Blind; Dr. Fred Fay, Rehabilitation Psychologist); Fred G. Burke, commissioner of education, State of New Jersey; Frederick J. Weintraub, assistant executive director for governmental relations, The Council for Excep-

tional Children; Carl Megel, director of legislation, American Federation of Teachers; Richard J. Dowling, director of legislative and legal affairs, American Speech and Hearing Association.

Summary of the Bill

S. 1256 amends existing law by extending for 1 additional year through fiscal year 1976 the entitlements under part B (grants to the States) of the Education of the Handicapped Amendments of 1974. The formula providing State entitlements at a rate of $8.75 per child aged 3 through 21 would expire under present law on June 30, 1975.

Cost Estimates

Pursuant to section 252 of the Legislative Reorganization Act of 1970, the cost estimate, based on the authorization ceiling in previous law, is approximately $666 million to be distributed to the states on a basis in proportion to the number of school age children aged 3–21 in each State.

Tabulation of Votes Cast in Committee

Pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, the following is a tabulation of votes of the Members of the Committee on Labor and Public Welfare on a motion to report favorable to the Senate S. 6, as amended by committee substitute and title amendment, (adopted: 15 yeas, 0 nays), as follows:

Yeas	*Nays*
Mr. Williams	0
Mr. Randolph	
Mr. Pell	
Mr. Kennedy	
Mr. Nelson	
Mr. Mondale	
Mr. Eagleton	
Mr. Cranston	
Mr. Hathaway	
Mr. Javits	
Mr. Schweiker	
Mr. Taft	
Mr. Beall	
Mr. Stafford	
Mr. Laxalt	

Section-by-Section Analysis of S. 1256, as Reported

Subsection (a) amends subsection (a) of section 614 of the Education Amendments of 1974, which added a new section 611 to the Education of the Handicapped Act (hereinafter in this analysis referred to as "the Act") effective for fiscal year 1975 only, to extend the provisions of that section 611 through fiscal year 1976.

Subsection (b) amends subsection (b) of section 614 of the Education Amendments of 1974, which added a new section 612 to the act effective for fiscal year 1975 only, to extend the provisions of that section 612 through fiscal year 1976.

Subsection (c) amends subsection (c) of section 614 of the Education Amendments of 1974, which inserted in the first sentence of section 613(a) of the act the clause "is entitled to receive payments" in lieu of "desires to receive grants" effective for the fiscal year 1975 only, to extend the insertion of that clause in section 613(a) of the act through fiscal year 1976.

Subsection (d). Paragraph (1) amends paragraph (2) of subsection (c) of section 611 of the act, as added by section 614(a) of the Education Amendments of 1974 effective for the fiscal year 1975 only, to extend the entitlement to grants under that paragraph (2) of subsection (c) of that section 611 through fiscal year 1976. Paragraph (2) amends subsection (d) of section 611 of the act, as added by section 614(a) of the Education Amendments of 1974 effective for the fiscal year 1975 only, to extend the authorization for the Commissioner to make certain payments under that subsection (d) of that section 611 through fiscal year 1976. Paragraph (3) amends subsection (a) of section 612 of the act, as added by subsection (b) of section 614 of the Education Amendments of 1974 effective for the fiscal year 1975 only, to extend that provision governing the allocation of appropriations through fiscal year 1976.

Subsection (e) amends subsection (b) of section 611 of the act, as amended by section 614(e)(2) of the Education Amendments of 1974, to strike out "$100,000,000 for the fiscal year ending June 30, 1976 and". (The deletion of this language is necessary because the committee bill extends the sections 611 and 612 which were added by the Education Amendments of 1974 for fiscal year 1975 only through fiscal year 1976.)

Changes in Existing Law

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as repeated are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law which no change is proposed is shown in roman):

STATE ENTITLEMENTS

Sec. 614. (a) Effective for fiscal year 1975 and fiscal year 1976 only, section 611 of the Education of the Handicapped Act is amended to read as follows:

"GRANTS TO STATES FOR EDUCATION OF HANDICAPPED CHILDREN

"Sec. 611. (a) The Commissioner shall, in accordance with the provisions of this part, make payments to States for the purpose of assisting the States in the initiation, expansion, and improvement of programs and projects for the education of handicapped children at the preschool, elementary school, and secondary school levels in order to

provide full educational opportunities to all handicapped children. Such payments may be used for the early identification and assessment of handicapping conditions in children under three years of age.

"(b)(1) Subject to the provisions of section 612, the maximum amount of the grant to which a State shall be entitled under this part shall be equal to—

"(A) the number of children aged three to twenty-one inclusive, in that State in the most recent fiscal year for which satisfactory data are available;

multiplied by—

"(B) $8.75.

"(2) For the purpose of this subsection, the term 'State' does not include the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"(c)(1) The jurisdictions to which this subsection applies are the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"(2) Each jurisdiction to which this subsection applies shall, for [the fiscal year ending June 30, 1975] *fiscal years 1975 and 1976*, be entitled to a grant in an amount equal to an amount determined by the Commissioner, in accordance with criteria established by regulations, needed to initiate, expand, or improve programs and projects for the education handicapped children at the preschool, elementary school, and secondary school levels, in that jurisdiction, except that the aggregate of the amount to which such jurisdictions are so entitled for any fiscal year shall not exceed an amount equal to 2 per centum of the aggregate of the amounts to which all States are entitled under subsection (b) of this section for that fiscal year. If the aggregate of the amounts, determined by the Commissioner pursuant to the preceding sentence, to be so needed for any fiscal year exceeds an amount equal to such 2 per centum limitation, the entitlement of each such jurisdiction shall be reduced proportionately until such aggregate does not exceed such 2 per centum limitation.

"(d) The Commissioner is authorized for [the fiscal year ending June 30, 1975] *fiscal years 1975 and 1976*, to make payments to the Secretary of the Interior according to the need for such assistance for the education of handicapped children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior, and the terms upon which payments for such purposes shall be made to the Secretary of the Interior shall be determined pursuant to such criteria as the Commissioner determine will best carry out the purposes of this part. The amount of such payment for any fiscal year shall not exceed 1 per centum of the aggregate amounts to which States are entitled under subsection (b) of this section for that fiscal year.".

(b) Effective for fiscal year 1975 only, section 612 of such Act is amended to read as follows:

"ALLOCATIONS OF APPROPRIATIONS

"SEC. 612. (a) Sums appropriated for [the fiscal year ending June 30, 1975] *fiscal years 1975 and 1976*, shall be made available to

States and allocated to each State, on the basis of unsatisfied entitlements under section 611, in an amount equal to the amount it received from the appropriation for this part for the fiscal year 1974.

"(b) Any sums appropriated to carry out this part for any fiscal year which remain after allocations under subsection (a) of this section shall be made to States in accordance with entitlements created under section 611 (to the extent that such entitlements are unsatisfied) ratably reduced.

"(c) In the event that funds become available for making payments under this part for any fiscal year after allocations have been made under subsections (a) and (b) for that year, the amounts reduced under subsection (b) shall be increased on the same basis as they were reduced.".

(c) Effective for fiscal year 1975 *and fiscal year 1976* only, section 613(a) of such Act is amended by striking out "desires to receive grants" in the first sentence of such subsection and inserting in lieu thereof "is entitled to receive payments."

* * * * * * * *

(2) Subsection (b) of section 611 of the Education of the Handicapped Act is amended to read as follows:

"(b) For the purpose of making grants under this part, there are authorized to be appropriated [$100,000,000 for the fiscal year ending June 30, 1976, and] $110,000,000 for the fiscal year ending June 30, 1977.".

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